

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

UNITED STATES OF AMERICA)CRIMINAL NO.: 4:11CR00413-RBH (1)
)
)
vs.)
)
JOSEPH ROBERT GUERNSEY)

JUDGMENT AND ORDER OF FORFEITURE

1. On March 22, 2011, a federal grand jury in this district returned an Indictment charging Defendant Joseph Robert Guernsey (“Guernsey”, “Defendant”) and his co-defendant, Benedict Guthrie Olberding (“Olberding”), with three counts of bank fraud, in violation of 18 U.S.C. § 1344. The Indictment alleges a continuing fraud scheme which ran between March 2007 and June 2009. Pursuant to Fed. R. Crim. P. 32.2(a), the Indictment contains a forfeiture allegation notifying Defendant that upon his conviction, certain property enumerated therein, or equivalent substitute assets, would be subject to forfeiture to the United States pursuant to, *inter alia*, 18 U.S.C. § 982(a)(2) (providing for forfeiture of criminally-derived proceeds), and 28 U.S.C. § 853(p) (providing for forfeiture of substitute assets). Pursuant to Fed. R. Crim. P 32.2(b)(1)(A), the forfeiture allegation also notified Defendant that the United States would seek a money judgment against Guernsey and Olberding, based upon the amount of criminally-derived proceeds of the scheme.

2. On October 28, 2011, Guernsey pled guilty to Count 3 of the Indictment, pursuant to a plea agreement which included forfeiture cooperation provisions. Based upon Defendant’s guilty plea and other matters of record, the court has determined that the fraud scheme to which he pled guilty was a continuing fraud scheme, which generated gross

criminal proceeds of \$1,000,000, and that such proceeds are subject to forfeiture pursuant to 18 U.S.C. § 982(a)(2). The court further finds that the United States is entitled to a money judgment against Guernsey in the amount of \$145,000, representing the value of criminally-derived proceeds of the \$145,000 home equity line of credit loan from Sun Trust Mortgage company. PSR., ¶ 8.

Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED:

1. Pursuant to 18 U.S.C. § 982(a)(2), the Defendant shall forfeit to the United States all of his right, title and interest in and to any property, real or personal, tangible or intangible, constituting or derived from any proceeds Defendant obtained, directly or indirectly, as a result of his violation of 18 U.S.C. § 1344, up to the amount of \$145,000.

2. JUDGMENT IS ENTERED against Defendant, and in favor of the United States in the amount of \$145,000, together with appropriate costs provided for in 28 U.S.C. § 1961 as of the date of entry of judgment until paid in full, and the United States may satisfy such money judgment from any property of the Defendant.

3. Upon entry, this Order becomes final as to Defendant, and shall be made part of his sentence and included in the criminal Judgment.

4. Upon entry of this Order, the United States Attorney is authorized to conduct proper discovery in identifying, locating, or disposing of the described property, or other substitute assets, in accordance with Fed. R. Crim. P. 32.2(b)(3); and to commence proceedings that comply with statutes governing third party rights, if applicable.

5. The United States may sell or otherwise dispose of any proceeds of the fraud scheme, or substitute assets, as required to satisfy the above-imposed money judgment.

6. Pursuant to Rule 32.2(6)(A), because this order does not direct the forfeiture of specific property, the government is not required to publish notice of the order. However, the judgment shall be recorded in the records of the County Clerk's Office in the county of the debtor's residence, place of business, and any and all other counties in which the debtor has either real or personal property, as a lien thereon.

7. Pursuant to Rule 32.2(e), the court shall retain jurisdiction to enforce this Order and to amend it as necessary.

8. The Clerk, U.S. District Court, shall provide one (1) certified copy of this Order to the United States Attorney's Office.

AND IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
UNITED STATES DISTRICT JUDGE

Florence, South Carolina

April 23, 2013